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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 CMR MORTGAGE FUND, LLC,

Case Nos. 3:09-CV-01299 MHP
and 3:09-CV-01842 MHP (Consolidated)

18 Appellant,

19 vs.
20 CANPARTNERS REALTY HOLDING
21 COMPANY IV, LLC,
22 Appellee.

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**STIPULATION AND ORDER ON
ADMINISTRATIVE MOTION OF CMR
MORTGAGE FUND, LLC TO
COORDINATE BRIEFING SCHEDULES
BETWEEN RELATED APPEALS**

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2 Both parties to the related appeals *CMR Mortgage Fund, LLC v. Canpartners Realty*
3 *Holding Company IV LLC*, Case Nos. 3:09-CV-3:09-CV-01299 MHP and 3:09-CV-3:09-CV-
4 01842 MHP (collectively referred to as the "Appeals"), stipulate as follows:

5 1. The foregoing appeals from the United States Bankruptcy Court are presently
6 pending before this Court. Appeal No. 09-3:09-CV-01299 was properly perfected, and a briefing
7 schedule issued whereby the CMR Fund opening brief is due on May 22, 2009. Appeal No. 09-
8 3:09-CV-01842-MHP was originally assigned to Judge Breyer. Based upon the Stipulation and
9 Proposed Order Regarding Related Case, and the Administrative Motion of Canpartners Realty
10 Holding Company IV, LLC to Relate Pending Appeals, the Court entered an order on May 13,
11 2009, relating Appeal No. 09-3:09-CV-01842 to Appeal No. 09-3:09-CV-01299 (Docket Nos. 8
12 and 7, respectively).

13 2. In Appeal No. 09-3:09-CV-01299, the Notice of Appeal was docketed, as was the
14 record on appeal (Docket No. 3). Upon the docketing of the record on appeal, the Clerk issued a
15 Notice re Briefing Schedule whereby the appellant's brief is due on May 22, 2009 (Docket
16 No. 4).

17 3. However, the District Court has never issued Notice re Briefing in Appeal No. 09-
18 3:09-CV-01842. On April 28, 2009, the Court issued a notice that, pursuant to Federal Rules of
19 Bankruptcy Procedure 8010, the opening brief would be due 30 days after the record on appeal
20 was docketed (Docket No. 2). CMR Fund timely filed the record on appeal with the Bankruptcy
21 Court. CMR Fund believes that the record on appeal was transmitted to the Bankruptcy
22 Appellate Panel and that the clerk at the Bankruptcy Appellate Panel transmitted the record on
23 appeal to the District Court. However, the record on appeal has not been docketed and no notice
24 of docketing the record and briefing schedule has issued in Appeal No. 09-3:09-CV-01842.

25 4. On May 7, 2009, the parties submitted a Stipulation and Proposed Order
26 Regarding Related Case, filed as Docket No. 8, in Appeal 09-CV3:09-CV-01299, in which they
27 recited their intention to request consolidation of the two Appeals for briefing and decision, which
28 Stipulation.

1 Dated: May 21, 2009
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10 Dated: May 21, 2009
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PURSUANT TO STIPULATION, IT IS ORDERED THAT:

- 1 2. The Notice re Briefing Schedule issued and docketed in Appeal No. 09-3:09-CV-
2 3:01299 is hereby vacated;
- 3 4. The Appeals in Case Nos. 3:09-CV-3:09-CV-01299 MHP and 3:09-CV-3:09-CV-
5 01842 MHP shall be briefed, argued and decided jointly;
- 6 7. Appellant's opening brief in the Appeals shall be due on June 22, 2009; Appellee's
7 opposition brief shall be due July 22, 2009, and Appellant's reply brief, if any, shall be due
8 8 August 3, 2009.

Dated: May 22, 2009

